
General Information

Sexual harassment in the workplace is illegal. It is a form of discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended, as well as the North Dakota Human Rights Act as stated in North Dakota Century Code Chapter 14-02.4.

Section 703(a) (1) of Title VII states, "It shall be unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."

The Equal Employment Opportunity Commission states that "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment."

Types of Sexual Harassment

There are two types of sexual harassment:

Quid Pro Quo: When submission to or rejection of unwelcome sexual conduct is used as a basis for employment decisions. Quid pro quo means "something for something."

- ♦ An example of quid pro quo is when a supervisor or someone with authority over the victim makes a "put out or get out" demand - "submit to my sexual requests or you will be fired, demoted, passed over for a promotion, or in some other way made miserable on the job." Quid pro quo harassment can be committed only by someone in the

Sexual harassment continues to be a concern in the workplace. In 2011, nearly 11,500 charges were filed with the Equal Employment Opportunity Commission and work-sharing agencies such as the North Dakota Department of Labor and Human rights. Education and prompt action can help you avoid becoming part of the statistics.

organization who has the power to control the victim's job destiny.

Hostile Environment: When unwelcome sexual conduct unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.

- ♦ An example of this is when a supervisor, co-worker, or someone else with whom the victim comes into contact on the job creates an abusive work environment or interferes with the employee's work performance through words or deeds *because of the victim's gender.*

Sex-Based Harassment

Title VII also protects against sex-based harassment, which is harassment based on gender. This type of harassment doesn't necessarily involve sexual language/actions.

For example, one court held that a man's violent physical assault on a woman was a violation of Title VII because the assault was based on the woman's gender - it did not matter that the assault itself was not sexual.

Likewise, it is a Title VII violation when a male employee makes trouble for a female co-worker on the job because he thinks only men should work there.

Same-Sex Harassment

Sexual harassment can also occur between individuals of the same sex.

Additionally, same-sex sexual harassment is not limited to situations in which one or more of the parties involved is homosexual. Inappropriate conduct "because of sex" is the issue, not the sexuality of the victim or the harasser.

Prevention of Sexual Harassment

Employees:

- Conduct yourself professionally.
- Become familiar with your company's procedures for reporting harassment.
- Decide ahead of time what action you would take if harassed.

Employers:

- Ensure your working environment is businesslike and professional.
- Let your employees know that you take the issue of harassment seriously.
- Ensure all employees are aware of and have access to the company's policy on sexual harassment and retaliation. Emphasize that **SEXUAL HARASSMENT WILL NOT BE TOLERATED.**
- Train managers and supervisors on sexual harassment issues.
- Make sure employees are aware of their rights regarding filing equal employment complaints.

Steps to Take if Harassed

- Remain professional.
- Take reasonable steps to avoid harm from harassment.
- Be direct with the harasser. Let him or her know that you do not like the behavior and that you want it to stop immediately.
- If the behavior continues, follow your company's grievance procedure and report the incident to your supervisor. If the harasser is your supervisor, you should go to someone of higher authority with your concerns.
- File a report or complaint with your

designated company official(s).

- When reporting the harassment, be prepared to share all the facts about the incident(s). Write down the important details of the incident(s). Collect your thoughts before you begin; remember to provide who, what, when, where, how, and any witnesses.
- Think about how the situation could be resolved by your company.
- If you feel that the company has failed to adequately address the issue, you may file a complaint with the North Dakota Department of Labor and Human Rights within 300 days from the last date of harm.

Employer Responsibilities

- Establish, distribute, and enforce a policy prohibiting sexual harassment.
- Encourage employees to report sexual harassment to management before it becomes severe and pervasive.
- Designate more than one individual to take complaints.
- Assure employees that complaints will be kept confidential to the extent possible.
- Make it known that RETALIATION BY CO-WORKERS OR SUPERVISORS WILL NOT BE TOLERATED.
- Always follow up with the complainant to ensure that the behavior has stopped and that no retaliation is occurring.
- Generally, employers are responsible for the actions of their supervisors and managers, as well as what they know or should have known about the occurrence of sexual harassment.

Investigating a Complaint

- **Act immediately and appropriately.**
An employer should conduct a prompt,

thorough, and impartial investigation.

- **Get the facts.** Document what you are told! Interview the complaining employee, the alleged harasser, and others who may have relevant information.
- **Stop the harm.** Before completing the investigation the employer should take steps to ensure the harassment does not continue.
- **Conclusion.** Make your determination. Inform both parties of your investigative findings, the determination, and any corrective/disciplinary steps.

Department of Labor and Human Rights' Role

The North Dakota Department of Labor and Human Rights is mandated by the North Dakota Human Rights Act to receive, investigate, determine cause, settle, and conciliate claims.

If the employer named in the charge meets federal jurisdiction, the North Dakota Department of Labor is authorized to also investigate on behalf of the Equal Employment Opportunity Commission.

Have Additional Questions?
Need assistance with this information?
Contact us at:

**North Dakota Department of Labor
and Human Rights**
600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340
Phone - (701)328-2660 or 1-800-582-8032
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Web site - nd.gov/humanrights

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Sexual Harassment in the Workplace

Important Information
for Employers & Employees



Jack Dalrymple
Governor

Troy T. Seibel
Commissioner of Labor